

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

8

DECISION

TOPIC

**Final Rules: Chapters 21, 22, 23, 25, 33 and 34, Air Quality Program Rules -
Updates, Revisions, and Additions**

The Commission to approve amendments to Chapter 21 "Compliance," Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25 "Measurement of Emissions," Chapter 33 "Special Regulations and Construction Permit Requirements for Major Stationary Sources – Prevention of Significant Deterioration (PSD) of Air Quality," and Chapter 34 "Emissions Trading Programs," of the 567 Iowa Administrative Code.

The primary purpose of the rule changes is to adopt into the state air quality rules several recently finalized federal regulations.

A public hearing was held on January 8, 2007. No comments were presented at the public hearing. Written comments were received from EPA Region VII prior to the close of the public comment period. The public comment period closed on January 9, 2007.

There were changes to three items in the final rules from what was published in the Notice. The Department made clarifying changes to Item 1 and Item 16 in response to comments from EPA Region VII. Additionally, a new Item 23 was added to the final rulemaking to correct a typographical error in Chapter 33. These changes are explained below and in the attached Responsiveness Summary.

This rulemaking adopts the following updates, revisions, and additions:

- Item 1 clarifies the eligibility requirements for variances. Under federal regulations, the Department may not issue a variance for conditions or standards specified under such federal regulations as Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), or National Emission Standards for Hazardous Air Pollutants (NESHAP). The Department may grant a variance which does not alter the facility's obligation to comply with elements of these federal regulations. The amendment is the Department's effort to clarify the variance eligibility requirements. The Department made minor changes to the final amendment in response to EPA comments, which are explained in detail in the rulemaking preamble and in attached Responsiveness Summary.
- Items 2 and 3 update the references to federal regulations that designate Iowa's attainment status with the National Ambient Air Quality Standards (NAAQS). The federal regulations were last updated in January 2005. At that time, EPA did not designate any nonattainment areas within Iowa.

- Item 4 updates a reference to federal regulations for hazardous air pollutants that were adopted by reference in Chapter 23 in a previous rulemaking.
- Items 5, 6 7 and 8 correct cross references in the Title V, Acid Rain and other operating permit program rules for amendments that were adopted in a previous rulemaking.
- Item 9 amends Chapter 23 to adopt recent federal amendments to the NSPS provisions. In particular, EPA revised the definition of electric generating unit (EGU). The amendment codified what the Department had already presumed to be the definition of EGU for the purposes of the Clean Air Mercury Rule (CAMR). There were additional clarifications to the NSPS regulations for testing methods and for the requirements for other source categories, which are described in more detail in the rulemaking preamble.
- Item 10 amends the standards for electric utility steam generating units to adopt recent federal changes to the applicability requirements for CAMR. EPA made clarifications to the definition of "coal-fired electric utility steam generating unit" and clarified the emission standard for mercury. The federal amendments reflect the Department's previous understanding of these provisions, and do not alter CAMR's applicability to Iowa's facilities.
- Items 11 and 13 reserve two paragraphs in Chapter 23 in the NSPS rules to coincide with similarly reserved paragraphs in the federal NSPS regulations.
- Item 12 amends Chapter 23 to adopt a new NSPS. EPA issued final standards for diesel engines that are stationary compression ignition internal combustion engines for which construction modification or reconstruction commenced after July 11, 2005. Although these standards are modeled after the EPA standards for mobile source diesel engines, these standards do not apply to motor vehicles. These standards are described in more detail in the final rulemaking preamble. The Department expects a number of facilities to become subject to these standards as these facilities replace their stationary diesel engines with new engines.
- Item 14 amends Chapter 23 to adopt another new NSPS. EPA finalized standards for certain stationary combustion turbines that commenced construction, modification or reconstruction after February 19, 2005. These standards are described in more detail in the rulemaking preamble. At this time, the Department is aware of one facility that may be subject to these new standards, and expects more facilities to become affected as they install new combustion turbines.
- Item 15 amends Chapter 23 to adopt recent federal changes to the national emission standards for hazardous air pollutants for source categories (commonly known as NESHAPs). The substantive changes are described in detail in the rulemaking preamble and include the following:
 - EPA took final action on several NESHAPs to address residual risk. EPA found that no additional control was necessary, and made only minor changes to the

NESHAPs for these source categories: hydrochloric acid production, magnetic tape manufacturing, ethylene oxide sterilizers, industrial process cooling towers, and gasoline distribution facilities.

- EPA amended the NESHAP general conditions to revise certain aspects of the start-up, shutdown and malfunction (SSM) requirements.
 - EPA amended three NESHAPs related to printing, publishing, paper coating, and textile coating to resolve inconsistencies, add additional compliance flexibility, and clarify the interaction between the three sets of standards.
 - EPA amended the NESHAP for organic liquids distribution to provide additional compliance options.
 - EPA amended the NESHAP for miscellaneous organic chemical manufacturing (MON) to clarify applicability, provide additional compliance options, modify initial and continuous compliance requirements, and simplify the recordkeeping and reporting requirements.
 - EPA amended the NESHAP for integrated iron and steel manufacturing to add a new compliance option, revise emission limitations, reduce the frequency of repeat performance tests for certain emission units, add corrective action requirements, and clarify monitoring, recordkeeping and reporting requirements.
 - EPA amended the NESHAP for miscellaneous coating manufacturing to narrow the activities covered under the regulations and to minimize the compliance burden to affected facilities.
- Item 16 adopts federal changes to the NESHAP for dry cleaning facilities that use perchloroethylene (also known as perc). EPA assessed the residual risk for this source category, and determined that additional controls were necessary to protect the public health with an ample margin of safety. As such, dry cleaners will be subject to a number of new requirements. In particular, dry cleaners that are located in residential buildings, such as apartment complexes, will be required to eliminate or phase out all use of perc in several stages, beginning immediately for new facilities, and by 2020 for existing facilities. At this time, the Department is not aware of any dry cleaners in the state that are located in residential structures. The Department will work closely with our small business assistance partners to assist dry cleaners in complying with the requirements by the prescribed deadlines. Additional, new requirements for dry cleaners are summarized in more detail in the rulemaking preamble. The Department made minor modifications to the final rulemaking language to summarize the rule requirements, and in response to comments from EPA.
- Item 17 amends the NESHAP for hazardous waste combustors. The Department is not aware of any facility in the state subject to these standards.
- Item 18 amends the emission guidelines in Chapter 23 to adopt the most recent federal amendments. This includes adopting the minor clarifications to CAMR that do not alter CAMR's applicability to Iowa's facilities.
- Items 19 and 20 amend the emission guidelines to correct cross reference to Title V program rules for amendments that were adopted in a previous rulemaking.

- Items 21 and 22 amend Chapter 25 to update references to federal NSPS regulations that are being adopted by reference as indicated in Item 9.
- Item 23 is an amendment to Chapter 33 that was not included in the Notice, but is being added to the final rulemaking. This amendment corrects a typographical error in the definition of "volatile organic compounds" under the definitions for the Prevention of Significant Deterioration (PSD) program contained under subrule 33.3(1).
- Items 24, 25 and 26 amend Chapter 34 to adopt by reference EPA's most recent changes to CAMR. These changes codified what had already been the Department's understanding of CAMR's impacts. These changes do not affect Iowa's mercury budget or the mercury allowance allocations specified in the current rules.

If the Commission approves these rules, they will be published in the Iowa Administrative Bulletin and adopted into the Iowa Administrative Code on February 28, 2007. The rules will become effective on April 4, 2007.

An administrative rule fiscal impact statement is attached.

Christine Paulson
Environmental Specialist Senior
Program Development Section, Air Quality Bureau
Memo date: January 9, 2007

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 21, “Compliance,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," and Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

The purpose of the amendments is to adopt into the state air quality rules several federal regulations that the U.S. Environmental Protection Agency (EPA) recently finalized. The proposed amendments also include clarifications and corrections to state air quality rules for variances and for the operating permit program requirements.

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on December 6, 2006, as ARC 5599B. A public hearing was held on January 8, 2007. No comments were presented at the hearing. One set of written comments was received prior to the close of the public comment period. The public comment period closed on January 9, 2007.

The submitted comments and the Department’s response to the comments are summarized in a responsiveness summary available from the Department. The adopted amendments contain minor modifications from the proposed amendments published under Notice of Intended Action to address the public comments, as detailed in the descriptions of Items 1 and 16. Additionally, the amendment adopted in Item 23 was not included in the Notice. This amendment corrects a typographical error in subrule 33.3(1), and is described in more detail under Item 23 below.

Item 1 rescinds paragraph 21.2(4)“c” and adopts a new paragraph to clarify the eligibility requirements for variances. Under federal regulations, the Department may not issue a variance for conditions or standards specified under such federal regulations as Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), or National Emission Standards for Hazardous Air Pollutants (NESHAP). The Department may grant a variance which does not alter the facility’s obligation to comply with elements of these federal regulations. The amendment is the Department’s effort to clarify the variance eligibility requirements.

In response to EPA comments, the Department added language to final rule further clarifying the PSD requirements for which the Department may not grant a variance. EPA had concerns that variances might be given from preconstruction review requirements at facilities that would be subject to PSD but for a minor source permit limiting its potential to emit. It is not the Department's intent to grant variances from preconstruction review to a potentially PSD-subject facility until the facility obtains the appropriate permit to limit its potential emissions below major source thresholds. The Department will continue to review such variance requests on a case-by-case basis.

EPA also wanted to ensure that affected facilities knew that variances the Department issues from requirements contained in the federally-approved state implementation plan (SIP) do not change the requirements contained in the SIP unless the variance is approved by EPA. It is not the Department's intention to alter Iowa's SIP by issuing specific variances on a case-by-case basis to a limited number of facilities.

Item 2 amends rule 567—22.6(455B) to update the reference to federal regulations under 40 Code of Federal Regulations (CFR) 81.316 that designates Iowa’s attainment status with the

National Ambient Air Quality Standards (NAAQS). These federal regulations were last updated for Iowa on January 5, 2005. At that time, EPA designated all areas in Iowa as being in attainment (“better than national standards”) or unclassifiable (“cannot be classified”).

Item 3 amends subrule 22.7(1) to update the reference to federal regulations under 40 CFR 81.316. This reference is being updated for the same reasons as explained for Item 2 above.

Item 4 amends paragraph 22.7(2)“d” to update a reference to federal regulations for hazardous air pollutants under 40 CFR Part 61 that were adopted by reference into subrule 23.1(3) in a previous rule making.

Items 5, 6, 7 and 8 amend subrules 22.105(2), 22.106(6), 22.201(2) and 22.300(3), respectively, to correct cross references to rules for Title V permits, Acid Rain permits, and permits by rule for small sources for amendments that were adopted in a previous rule making.

Item 9 amends the introductory paragraph of subrule 23.1(2) for new source performance standards (commonly known as NSPS) to reflect the recent federal amendments to 40 CFR Part 60.

EPA made a number of minor technical and administrative changes to the federal NSPS regulations. EPA made minor technical corrections to the continuous monitoring requirements in Performance Specification 1. EPA also made technical amendments to correct errors relating to the testing requirements and test methods in Subpart J (Petroleum Refineries), Subpart BB (Kraft Pulp Mills), Subpart WWW (Municipal Solid Waste Landfills), and Appendix B (Performance Specification 2). Additionally, EPA revised the standards for new, large municipal waste combustors (MWC) under Subpart Eb. The changes to the MWC standards, according to

EPA, will reflect the performance level achievable by MWC units constructed in the future. The Department is not aware of any proposed MWC in the state.

EPA also amended Subpart B, which contains the requirements for adoption and submittal of state plans, to revise the definition of “electric generating unit (EGU).” The amendment codified what the Department had already presumed to be the definition of “EGU” for the purposes of the Clean Air Mercury Rule (CAMR).

Item 10 amends paragraph 23.1(2)“z” to reflect the date of recent federal changes to the standards for electric utility steam generating units (Subpart Da) to clarify the applicability requirements for CAMR. EPA made clarifications to the definition of “coal–fired electric utility steam generating unit” and clarified the emission standard for mercury. The federal amendments reflect the Department’s previous understanding of these provisions, and do not alter CAMR’s applicability to Iowa’s facilities.

Item 11 adopts and subsequently reserves a new paragraph 23.1(2)“xxx” to coincide with a similarly reserved paragraph in the federal NSPS regulations.

Item 12 adds a new paragraph 23.1(2)“yyy” for a new NSPS. EPA issued final standards for diesel engines that are stationary compression ignition internal combustion engines for which construction modification or reconstruction commenced after July 11, 2005. Although these standards are modeled after the EPA standards for mobile source diesel engines, these standards do not apply to motor vehicles. These standards will regulate emissions of particulate matter (PM), nitrogen oxides (NO_x), carbon monoxide (CO), and non–methane hydrocarbons (NMHC) over three phases. Sulfur dioxide (SO₂) will also be reduced through the use of lower sulfur fuel. In the first phase, owners and operators of pre–2007 engine models will be required to maintain the engine according to the manufacturer’s instructions. The second phase begins with

2007 model-year engines, and requires that the engines meet the PM, NO_x, CO and NMHC standards specified under EPA's standards for nonroad and marine diesel engines. The third phase requires engine manufacturers for 2011 model years and later to install add-on controls to achieve additional emission reductions of these pollutants. These phases of the standards impact new stationary diesel engines. The Department expects a number of facilities to become subject to these standards as these facilities replace their stationary diesel engines with new engines.

Item 13 adopts and subsequently reserves a new paragraph 23.1(2)“zzz” to coincide with a similarly reserved paragraph in the federal NSPS regulations.

Item 14 adopts a new paragraph 23.1(2)“aaaa” for a new NSPS. EPA issued final standards for stationary combustion turbines with a heat input load equal to or greater than 10 MMBtu that commenced construction, modification or reconstruction after February 19, 2005. These standards will reduce the emissions of NO_x and SO₂ by 80 and 90 percent, respectively. EPA states that these standards will allow owners and operators the flexibility to meet their emission limit targets by increasing the efficiency of their turbines. Owners of turbines can choose to meet either a concentration-based or output-based limit for NO_x emissions. The NO_x limits differ based on the fuel input at peak load, fuel, application and location of the turbine. The SO₂ limits depend on the location of the turbine but are not dependent on size or fuel type. Compliance with the SO₂ limit can be met by using lower sulfur fuel. At this time, the Department is aware of one possible project to which these new standards will apply. However, since these rules will impact new engines, the Department expects more facilities to become affected as they install new combustion turbines.

Item 15 amends the introductory paragraph of subrule 23.1(4), which contains the National Emission Standards for Hazardous Air Pollutants (commonly known as NESHAPs) for

source categories to reflect recent amendments to 40 CFR Part 63. From February through October 2006, EPA made numerous minor changes to 40 CFR Part 63, which included both technical and administrative updates and corrections. The substantive changes to 40 CFR Part 63 include the following:

- EPA amended several NESHAPs to address residual risk, which is required of EPA under Section 122(f)(2) of the Clean Air Act. EPA took final action on five NESHAPs, determining that no further control of Hazardous Air Pollutants (HAPs) was necessary, and making only minor administrative changes to the standards. These standards apply to the following source categories: hydrochloric acid production, magnetic tape manufacturing, ethylene oxide sterilizers, industrial process cooling towers, and gasoline distribution facilities.
- EPA amended the NESHAP General Conditions (Subpart A) to revise certain aspects of the startup, shutdown and malfunction (SSM) requirements. EPA removed the requirement that an SSM plan must be followed during periods of SSM to allow sources flexibility in addressing emissions during these periods. According to EPA, this in no way alleviates the responsibility of a source to minimize emissions during SSM. EPA fully expects owners and operators to follow their SSM plans during periods of SSM. Owners and operators are still required to keep records and report actions taken to minimize emissions during periods of SSM whenever there are excess emissions.
- EPA amended the NESHAP for Printing and Publishing (Subpart KK) to resolve inconsistencies, clarify language and add additional compliance flexibility. EPA simultaneously amended the NESHAP for Paper and Other Web Coating (Subpart JJJJ) and the NESHAP for Printing, Coating, and Dyeing of Fabric and Other Textiles (Subpart OOOO) to clarify the

interaction between the three NESHAPs. According to EPA, these amendments will not have a discernable effect on the stringency of these NESHAPs.

- EPA amended the NESHAP for Organic Liquids Distribution (non-gasoline) under Subpart EEEE. These revisions provide an additional, equivalent control option for vapor balancing for transfer racks that allows routing of displaced HAP vapors to a storage tank with a common header. The amendments also add an option to allow vapor balancing back to the transport vehicle for storage tanks when they are being filled with organic liquids. As part of this action, EPA amended the NESHAP for General Conditions (Subpart A) to incorporate by reference a new standard test method.

- EPA amended the NESHAP for Miscellaneous Organic Chemical (MON) manufacturing (Subpart FFFF). These revisions clarify applicability, provide additional compliance options, modify initial and continuous compliance requirements, and simplify the record-keeping and reporting requirements. EPA claims that these amendments will reduce the burden associated with demonstrating compliance without affecting the emissions control or the ability of states to ensure compliance.

- EPA amended the NESHAP for Integrated Iron and Steel Manufacturing (Subpart FFFFF) to add a new compliance option, revise emission limitations and reduce the frequency of repeat performance tests for certain emission units, add corrective action requirements, and clarify monitoring, record-keeping, and reporting requirements. The amendments revise the applicability of emission limits for sinter cooler stacks at new and existing sinter plants. The standards also establish a 10 percent opacity standard, in lieu of a PM standard, for a sinter cooler at an existing sinter plant. Additionally, the emission limits apply to each sinter cooler instead of each sinter cooler stack. EPA states that these amendments do not affect the level of

emission control required under the existing NESHAP, but, rather, reduce the costs of implementation in future years.

- EPA amended the NESHAP for Miscellaneous Coating Manufacturing (Subpart HHHHH) to clarify the applicability of the federal regulations and to minimize the compliance burden on affected facilities. In summary, these amendments:

- Clarify that coating manufacturing means the production of coatings using operations such as mixing and blending, not the reaction or the separation of processes used in chemical manufacturing;

- Extend the compliance date for certain coating manufacturing equipment that is also part of a chemical manufacturing process unit; and

- Clarify that operations by end users that modify a purchased coating prior to application at the purchasing facility are exempt from these regulations.

Item 16 amends paragraph 23.1(4)“m” to adopt by reference the recent EPA changes to the federal NESHAP for Dry cleaning facilities that use the HAP, perchloroethylene (Subpart M). As required under Section 112 of the Clean Air Act, EPA assessed the remaining residual risk to public health from the control standards imposed in 1993 under the original NESHAP. EPA is now revising the standards to take into account new developments in production practices, processes and control technologies. EPA also determined that more stringent control of perchloroethylene (commonly known as perc) was needed to protect public health with an ample margin of safety. EPA has identified perc as a “possible to probable” human carcinogen. As such, the NESHAP amendments provide a further reduction in perc emissions beyond those required in the original NESHAP. These perc emissions reductions are based on application of

new equipment and work practice standards and, in certain situations, will disallow the use of perc at dry cleaning facilities.

Large industrial and commercial dry cleaners are classified as major sources, meaning that they emit more than 10 tons of perc per year. Major source dry cleaners must continue to implement the Maximum Achievable Control Technology (MACT) specified under the original regulations, and also must implement state-of-the-art equipment to detect and repair leaks.

EPA is aware of only 12 major source dry cleaners nationally, none of which are located in Iowa.

Small or “area source” dry cleaners are those that emit less than 10 tons of perc per year. Small, existing dry cleaners located in the same complex as residential apartments (sometimes termed “co-residential”) will be required to phase out perc use by 2020. These “co-residential” dry cleaners may continue to operate after 2020, as long as they use alternative technologies that do not use perc. Until 2020, owners or operators of “co-residential” dry cleaners with existing perc machines must use enhanced technology beyond what was required under the original regulations to detect and repair leaks.

Any small, new “co-residential” dry cleaner that begins operation after July 13, 2006, may not use perc. Small, new “co-residential” dry cleaners that began operating a perc dry cleaning machine between December 21, 2005, and July 13, 2006, must install control equipment, such as refrigerated condensers, carbon adsorbers, and vapor barriers, to aggressively control perc emissions, conduct weekly inspection and repair of leaks, and eliminate all use of perc by July 27, 2009.

Small, “free standing” dry cleaners that are located in a shopping center or as a stand-alone building are required to use improved leak detection and repair. Small, existing “free standing” dry cleaners are also prohibited from using transfer machines after July 27, 2008.

Small, new dry cleaners were prohibited from using transfer machines under the original regulations. Transfer machines move wet clothes from one machine to another for drying. Transfer machines are considered the highest-emitting type of dry cleaning equipment. The Department is aware of a small number of existing transfer machines that remain in operation in the state.

The original NESHAP for dry cleaners did not have distinct provisions for “co-residential” facilities. The Department’s central and field office staff, along with small business assistance staff at the Iowa Department of Economic Development and the University of Northern Iowa (UNI), will be coordinating our efforts to identify these facilities. At this time, the Department and UNI are not aware of any existing “co-residential” dry cleaners operating in the state. The Department and its partners will work with dry cleaning facilities, including those facilities that still operate transfer machines, to ensure compliance with the new regulations by the prescribed deadlines. Since compliance at existing sources is not required until July 2008, this should allow sufficient time for the Department and its partners to provide outreach and compliance assistance to dry cleaning facilities.

The Department made minor changes in the final rule to better summarize the requirements of 40 CFR Part 63, Subpart M. These changes were made partially in response to written comments from EPA.

Item 17 amends paragraph 23.1(4)“be” to reflect the most recent amendments to the standards for hazardous waste combustors. EPA agreed to reconsider the particulate matter standard for new cement kilns that burn hazardous waste, and proposed to change the standard on March 23, 2006. On October 25, 2006, EPA suspended the obligation of new cement kilns to comply with the particulate matter standard until EPA takes final action on its proposed

changes. This amendment does not affect other standards applicable to new or existing hazardous waste burning cement kilns. The Department is not aware of any facilities in the state that are subject to these standards.

Item 18 amends subrule 23.1(5) to reflect the most recent federal amendments to the emission guidelines. EPA made clarifications and technical corrections to the standards for CAMR-affected units. The specific changes are summarized below in Items 24 and 25. These changes did not affect the Iowa facilities that are subject to CAMR.

Item 19 amends subparagraph 23.1(5)“a”(2) to correct a cross reference to Title V program rules for amendments that were adopted in a previous rule making.

Item 20 amends subparagraph 23.1(5)“b”(2) to similarly correct a cross reference to Title V program rules for amendments that were adopted in a previous rule making.

Item 21 amends subrule 25.1(9) to update references to test methods in 40 CFR Part 60, Appendix B, that are being adopted by reference as indicated in Item 9.

Item 22 amends paragraph 25.1(10)“a” to update a reference to federal regulations in 40 CFR Part 60 that are being adopted by reference as indicated in Item 9.

Item 23 amends subrule 33.1(1), the PSD program definition for "volatile organic compounds" or "VOC," to correct a typographical error. This amendment was not included in the Notice.

Item 24 amends rule 567—34.300(455B) to reflect EPA’s recent amendments to CAMR. The specific changes are outlined below in Items 25 and 26.

Item 25 amends rule 567—34.301(455B) to adopt by reference EPA’s minor amendments to the federal CAMR regulations under 40 CFR 60.4104. EPA amended the CAMR

applicability provisions for existing coal-fired EGUs. The amendments codified what had already been the Department's presumption of CAMR's applicability to Iowa facilities.

Item 26 amends rule 567—34.304(455B) to adopt by reference the recent, minor changes to the CAMR provisions under 40 CFR 60.4141. EPA amended the timing requirements for Hg allowance allocations. The amendments codified what had already been the Department's presumption of the timing requirements for CAMR.

These amendments are intended to implement Iowa Code section 455B.133. These amendments become effective on April 4, 2007.

The following amendments are adopted.

ITEM 1. Rescind paragraph **21.2(4)“c”** and adopt the following **new** paragraph in lieu thereof:

c. The director shall not grant a variance from any of the following requirements:

(1) Case-by-case MACT, 567—paragraph 22.1(1)“b”;

(2) Prevention of Significant Deterioration (PSD), 567—Chapter 33, to the extent that variances may not be granted from the preconstruction review and permitting program specified under Chapter 33 (formerly 567—rule 22.4(455B)), or from any requirement contained in a PSD permit issued under 567—Chapter 33 (formerly 567—rule 22.4(455B), or from a PSD permit issued under 40 CFR sections 51.166 or 52.21.

(3) New source performance standards, 567—subrule 23.1(2);

(4) Emission standards for hazardous air pollutants, 567—subrule 23.1(3);

(5) Emission standards for hazardous air pollutants for source categories, 567—subrule 23.1(4);

(6) Emission guidelines, 567—subrule 23.1(5); or

ITEM 2. Amend rule 567—22.6(455B) as follows:

567—22.6(455B) Nonattainment area designations. Section 107(d) of the federal Clean Air Act, 42 U.S.C. §7457(d), requires each state to submit to the Administrator of the federal Environmental Protection Agency a list of areas that exceed the national ambient air quality standards, that are lower than those standards, or that cannot be classified on the basis of current data. A list of Iowa’s nonattainment area designations is found at 40 CFR Part 81.316 as amended through ~~April 30, 2004~~ January 5, 2005. The commission uses the document entitled “Criteria for Revising Nonattainment Area Designations”* (June 14, 1979) to determine when and to what extent the list will be revised and resubmitted.

*Filed with Administrative Rules Coordinator, also available from the department.

ITEM 3. Amend subrule 22.7(1), introductory paragraph, as follows:

22.7(1) Applicability. The owner or operator of any source located in an area with attainment or unclassified status (as published at 40 CFR §81.316 amended ~~March 19, 1998~~ January 5, 2005) or located in an area with an approved State Implementation Plan (SIP) demonstrating attainment by the statutory deadline may apply for an alternative set of emission limits if:

ITEM 4. Amend paragraph **22.7(2)“d”** as follows:

d. Hazardous air pollutants designated in 40 CFR Part 61, as amended through ~~October 14, 1997~~ July 20, 2004, will not be exchanged for nonhazardous air pollutants;

ITEM 5. Amend subrule 22.105(2), introductory paragraph, as follows:

22.105(2) Standard application form and required information. To apply for a Title V permit, applicants shall complete the standard permit application form available only from the department of natural resources and supply all information required by the filing instructions found on that form. The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule 22.106(455B). If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs ~~22.101(2)“e” and “d,”~~ 22.101(1)“c” and “d,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

ITEM 6. Amend subrule 22.106(6) as follows:

22.106(6) Title V ~~deferred~~ exempted stationary sources. No fee shall be required to be paid for emissions until the year in which sources ~~deferred~~ exempted under ~~subrule 22.101(2)~~ subrules 22.102(1) and 22.102(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

ITEM 7. Amend subrule 22.201(2) as follows:

22.201(2) Exceptions.

a. Any affected source subject to the provisions of Title IV of the Act or sources required to obtain a Title V operating permit under paragraph ~~22.101(1)“e”~~ 22.101(1)“f” or any solid waste incinerator unit required to obtain a Title V operating permit under Section 129(e) of the Act is not eligible for a voluntary operating permit.

b. Sources which are not major sources but subject to a standard or other requirement under 567—subrule 23.1(2) (standards of performance for new stationary sources) or Section 111 of the Act; or 567—subrule 23.1(3) (emissions standards for hazardous air pollutants), 567—subrule 23.1(4) (emissions standards for hazardous air pollutants for source categories) or Section 112 of the Act are eligible for a voluntary operating permit. These sources shall be required to obtain a Title V operating permit when the ~~deferral period~~ exemptions specified in ~~567—subrule 22.101(2) has expired~~ subrules 22.102(1) and 22.102(2) no longer ~~applies~~ apply.

ITEM 8. Amend subrule 22.300(3) as follows:

22.300(3) Exceptions to eligibility.

a. Any affected source subject to the provisions of Title IV of the Act or any solid waste incinerator unit required to obtain a Title V operating permit under Section 129(e) of the Act is not eligible for an operating permit by rule for small sources.

b. Sources which meet the registration criteria established in 22.300(2)“a” and meet all applicable requirements of rule 22.300(455B), and are subject to a standard or other requirement under 567—subrule 23.1(2) (standards of performance for new stationary sources) or Section 111 of the Act are eligible for an operating permit by rule for small sources. These sources shall be required to obtain a Title V operating permit when the ~~deferral period~~ exemptions specified in ~~subrule 22.101(2) has expired or~~ subrule 22.102(1) or 22.102(2) no longer ~~applies~~ apply.

c. Sources which meet the registration criteria established in 22.300(2)“a” and meet all applicable requirements of rule 22.300(455B), and are subject to a standard or other requirement under 567—subrule 23.1(3) (emissions standards for hazardous air pollutants), 567—subrule 23.1(4) (emissions standards for hazardous air pollutants for source categories) or Section 112 of the Act are eligible for an operating permit by rule for small sources. These sources shall be required to obtain a Title V operating permit when the ~~deferral period exemptions~~ specified in ~~subrule 22.101(2) has expired or~~ subrule 22.102(1) or 22.102(2) no longer ~~applies~~ apply.

ITEM 9. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~February 27, 2006~~ September 21, 2006, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 10. Amend paragraph **23.1(2)“z”** as follows:

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input of fossil fuel for which construction or modification or reconstruction is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input. An electric utility steam generating unit is any fossil fuel-fired combustion unit of more than 25 megawatts electric (MW) that serves a

generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 MW output to any utility power distribution system for sale is also an electric utility steam generating unit. This standard also includes a provision for mercury emissions for any coal-fired electric utility steam generating unit other than an integrated gasification combined cycle electric steam generating unit, for which construction or reconstruction commenced after January 30, 2004.

(Subpart Da as amended through ~~May 18, 2005~~ June 9, 2006).

ITEM 11. Amend subrule **23.1(2)** by adopting and reserving the following **new** paragraph “**xxx**”:

xxx. Reserved.

ITEM 12. Amend subrule **23.1(2)** by adopting the following **new** paragraph “**yyy**”:

yyy. Stationary compression ignition internal combustion engines. Unless otherwise exempted, these standards apply to each stationary compression ignition internal combustion engine whose construction, modification or reconstruction commenced after July 11, 2005. (Part 60, Subpart IIII)

ITEM 13. Amend subrule **23.1(2)** by adopting and reserving the following **new** paragraph “**zzz**”:

zzz. Reserved.

ITEM 14. Amend subrule **23.1(2)** by adopting the following **new** paragraph “**aaaa**”:

aaaa. Stationary combustion turbines. Unless otherwise exempted, these standards apply to stationary combustion turbines with a heat input at peak load equal to or greater than 10

MMBtu per hour, based on the higher heating value of the fuel, that commence construction, modification, or reconstruction after February 18, 2005. (Part 60, Subpart KKKK)

ITEM 15. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~February 16, 2006~~ October 25, 2006, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule, “hazardous air pollutant” has the same meaning found in 567— 22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4)“a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. The

provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at ~~subrule~~ subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.

ITEM 16. Amend paragraph **23.1(4)“m”** as follows:

m. Perchloroethylene air emission standards for dry cleaning facilities. These standards apply to the owner or operator of each dry cleaning facility that uses perchloro-ethylene (also know as perc). In general, these requirements include, but are not limited to, the following:

- New and existing major source dry cleaning facilities are required to control emissions to the level of the maximum achievable control technology (MACT), and must use state-of-the-art equipment to detect and repair perc leaks from dry cleaning machines.
- New and existing area source dry cleaning facilities are required to control emissions ~~to the level achieved by generally available control technologies (GACT) or management practices. All coin-operated dry cleaning machines are exempt from the requirements of this subpart.~~
- New area sources that are located in residential buildings and that commence operation after July 13, 2006, are prohibited from using perc.
- New area sources located in residential buildings that commenced operation between December 21, 2005, and July 13, 2006, must install the emissions control equipment, conduct weekly inspection and repair of equipment leaks, and eliminate all use of perc by July 27, 2009.
- Existing area sources located in residential buildings must conduct enhanced leak detection and repair and eliminate all use of perc by December 21, 2020.

- New area sources that are not located in residential buildings are prohibited from using transfer machines, and must conduct inspection and repair of equipment leaks.
- Existing area sources that are not located in residential buildings must also conduct the specified leak detection and repair and are prohibited from operating transfer machines after July 27, 2008.

(Subpart M, as amended through July 27, 2006, and corrected on September 21, 2006)

ITEM 17. Amend paragraph **23.1(4)“be”** as follows:

be. Emission standards for hazardous air pollutants from hazardous waste combustors. These standards apply to all hazardous waste combustors: hazardous waste incinerators, hazardous waste burning cement kilns, hazardous waste burning lightweight aggregate kilns, hazardous waste solid fuel boilers, hazardous waste liquid fuel boilers, and hazardous waste hydrochloric acid production furnaces, except as specified in Subpart EEE. Both area sources and major sources are subject to this subpart as of April 19, 1996, and are subject to the requirement to apply for and obtain a Title V permit. (Part 63, Subpart EEE, as amended through ~~December 19, 2005~~ October 25, 2006)

ITEM 18. Amend subrule 23.1(5), introductory paragraph, as follows:

23.1(5) Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~May 18, 2005~~ June 9, 2006, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the

applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 19. Amend subparagraph **23.1(5)“a”(2)**, numbered paragraph **“3,”** as follows:

3. For MSW landfills subject to ~~567—subrule 22.101(1)~~ rule 567—22.101(455B) only because of applicability to subparagraph 23.1(5)“a”(2), the following apply for obtaining and maintaining a Title V operating permit under ~~567— 22.104(455B)~~:

ITEM 20. Amend subparagraph **23.1(5)“b”(2)**, numbered paragraph **“9,”** as follows:

9. The Title V operating permit requirements, as stated in ~~567—subrule 22.101(1)~~ rule 567—22.101(455B), are applicable to designated facilities subject to paragraph 23.1(5)“b.” They must apply for an operating permit as specified by ~~567—subrule 22.105(1)~~ no later than September 15, 2000.

ITEM 21. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of ~~567—Chapter 23~~ or a permit condition are those specified in the “Compliance Sampling Manual”* adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through October 17, 2000), B (as amended through ~~May 18, 2005~~ September 21, 2006) and F (as amended through January 12, 2004) of 40 CFR Part 60, and Appendices A (as amended through

May 18, 2005), B (as amended through May 18, 2005), F (as amended through May 18, 2005) and K (as amended through May 18, 2005) of 40 CFR Part 75.

*Available from the department.

ITEM 22. Amend paragraph **25.1(10)“a”** as follows:

a. An affected source is subject to a new source performance standard promulgated in 40 CFR Part 60 as amended through ~~August 14, 2001~~ September 21, 2006.

ITEM 23. Amend subrule 33.1(1), the definition of "volatile organic compounds" or "VOC," as follows:

"Volatile organic compounds" or "VOC means any compound included in the definition of "volatile organic compounds" found at ~~5040~~ CFR 51.100(s) as amended through November 29, 2004.

ITEM 24. Amend rule 567—34.300(455B) as follows:

567—34.300(455B) Provisions for air emissions trading and other requirements for the Clean Air Mercury Rule (CAMR). The CAMR provisions in 40 CFR Part 60, Subpart HHHH, as amended through ~~May 18, 2005~~ June 9, 2006, are adopted as indicated in rules 567—34.301(455B) through 567—34.308(455B). Additional provisions for CAMR are set forth in subrule 567—23.1(2), 567—paragraph 23.1(2)“z,” ~~subrule 567—subrules 23.1(5); and subrule 25.1(9) and rule 567—25.3(455B).~~

ITEM 25. Amend rule 567—34.301(455B) as follows:

567—34.301(455B) Mercury (Hg) budget trading program general provisions. The provisions in 40 CFR 60.4101 through 60.4108 as amended through ~~May 18, 2005~~ June 9, 2006,

are adopted by reference, except that the definition of “permitting authority” in 60.4102 shall mean the department of natural resources. Other terms contained in rules 567—34.301(455B) through 567—34.308(455B), and in Tables 3A and 3B, shall have the meanings set forth in 60.4102.

ITEM 26. Amend rule 567—34.301(455B) as follows:

567—34.304(455B) Hg allowance allocations. **The provisions in 40 CFR 60.4141 as amended through ~~May 18, 2005~~ June 9, 2006, are adopted by reference, except as indicated in this rule.**

Date

Jeffrey R. Vonk, Director

Administrative Rule Fiscal Impact Statement

Date: October 23, 2006

Agency: Department of Natural Resources

IAC Citation: 567 IAC

Agency Contact: Anne Preziosi

Summary of the Rule: The rules: 1) Clarify the requirements for variance eligibility; 2) Update references to federal regulations with national attainment, nonattainment and unclassified area designations; 3) Update a reference to federal hazardous air program rules that are adopted by reference in Chapter 23; 4) Correct cross references to the Title V permit rules, other operating permit rules and the Acid Rain program rules for amendment that were made in previous rulemakings 5) Amend Chapter 23 to adopt by reference federal amendments to, and new standards for, 40 CFR Part 60, New Source Performance Standards (NSPS), 6) Amend Chapter 23 to adopt by reference federal amendments to 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPS); 7) Amend Chapter 25 to update cross references to NSPS standards that are being adopted by reference in this rulemaking; 8) Amend Chapter 33 to correct a typographical error; and 9) Amend Chapter 34 to adopt recent, minor amendments to the federal Clean Air Mercury Rule (CAMR).

Fill in this box if the impact meets these criteria:

☒ No Fiscal Impact to the State.

☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal Impact cannot be determined.

Brief Explanation:

Rule changes will not affect expenditures or revenues to the state.

Fill in the form below if the impact does not fit the criteria above:

☐ Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

* Fill in the rest of the Fiscal Impact Statement form.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
<i>TOTAL REVENUE</i>	<hr/>	<hr/>
Expenditures:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
<i>TOTAL EXPENDITURES</i>	<hr/>	<hr/>
<i>NET IMPACT</i>		

 X This rule is required by State law or Federal mandate.

Please identify the state or federal law:

Clean Air Act sections 111, 112, and 502(a), as codified in 40 Code of Federal Regulations Parts 60, 63, and 70.

 Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

 X Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The agency will not need additional revenue to implement this rule.

Fiscal impact to persons affected by the rule:

The rule changes will primarily affect regulated parties (industry) with applicable air emissions or emission equipment. The rule changes will provide a better description and updated references to existing federal regulations. Adoption of these rules also will correct the cross-referenced citations contained in the rules for Title V, other operating permit, and Acid Rain subject sources.

The most evident impact of this rulemaking will be incorporation of the federal amendments to new source performance standards (NSPS) and emission standards for hazardous air pollutants (NESHAP). In particular the amendments to the NESHAP for dry cleaners will impose additional control requirements, and a ban on the use of the HAP, perchloroethylene, at new dry cleaning facilities that co-locate in the same building as apartment units ("co-residential" facilities). Perc use at existing "co-residential" dry cleaners will be phased out by 2020. The Department is not aware of any such "co-residential" dry cleaners in the state at this time.

Owners and operators of affected air emissions sources are subject to the federal requirements whether or not the state incorporates these federal requirements into the Iowa Administrative Code. Therefore, the incorporation by reference of the federal standards will not impose any additional costs to the affected sources.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

No impact.

* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate: Christine Paulson
Telephone Number: 515-242-5154

PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY
FOR
567 Iowa Administrative Code Chapter 21 “Compliance,” Chapter 22 “Controlling
Pollution,” Chapter 23 “Emission Standards for Contaminants,” Chapter 25
“Measurement of Emissions,” Chapter 33, “Special Regulations and Construction Permit
Requirements for Major Stationary Sources—Prevention of Significant Deterioration
(PSD) of Air Quality,” and Chapter 34, “Provisions for Air Quality Emissions Trading
Programs,”
Updates, Revisions, and Additions

Introduction

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on December 6, 2006, as ARC 5599B. A public hearing was held on January 8, 2007. No comments were received at the public hearing. One set of written comments was submitted prior to the close of the public comment period. The public comment period closed on January 9, 2007. The comments are attached to this responsiveness summary. The Department’s responses to the comments are summarized below.

Public Comment

These comments were submitted in writing by the U.S. Environmental Protection Agency Region VII, in regard to item numbers 1 and 16.

Item number 1 amends Chapter 21, by rescinding paragraph 21.2(4) "c" and adopting a new paragraph to clarify the requirements for which the Department may not grant a variance. EPA had the following specific recommendations:

- Change the reference to 567 IAC 22.4 to reference Chapter 33, since the Department has not moved the PSD requirements to Chapter 33;
- Make an addition to clarify that variances may not be issued for preconstruction requirements for a source which would be subject to PSD but for a minor source permit limiting its potential to emit (i.e. synthetic minor sources); and
- Add a provision to clarify that variances from requirements in the federally-approved SIP not change the requirements of the SIP unless they are approved by EPA.

Item number 16 contains the amendments adopting into state rules the federal changes to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for dry cleaners. EPA requested that references to "federal regulations" be clarified to specify the specific federal regulations, which are 40 CFR Part 63, Subpart M.

Department Response

Regarding Item 1, the Department agrees that further clarifications regarding PSD requirements for which the Department may not grant a variance is needed. Additionally, it is not the Department's intent to grant variances to projects potentially subject to PSD until the affected facility has obtained the appropriate permit to limit their potential emissions below the PSD major source thresholds.

It is also not the Department's intention to alter its federally-approved state implementation plan (SIP) through specific variances issued to a limited number of facilities on a case-by-case basis.

Regarding Item 16, the Department agrees that references to "federal regulations" in the Notice are vague.

Recommended Action

Regarding Item 1, the Department has added clarifying language to the final amendment regarding the PSD program requirements. However, the Department is not adding language regarding facilities potentially subject to PSD until they obtain a minor source permit limiting their potential. The Department will continue to review such variance requests on a case-by-case basis.

The Department also will not include additional language in the adopted amendments regarding the SIP. The Department is including language in the preamble to the final rule that reiterates that any variances issued by the Department do not alter the SIP unless the variance is approved by EPA.

Regarding Item 16, the Department is adding language to the adopted amendment to better summarize the requirements of 40 CFR Part 63, Subpart M. The Department is omitting all references to "federal regulations" in the final rule. As with other NESHAPs adopted by reference into state rules, the subpart being adopted will be referenced once, in parentheses, at the end of the paragraph containing the description of the rules being adopted.